

REMARKS

This is in response to the Office Action mailed on October 29, 2003. Applicants would like to thank the Examiner for entering Applicants' election. With respect to the issue raised by the Examiner regarding Applicants' traversal of the restriction requirement, Applicants wish to clarify that the traversal in Paper No. 11 was meant to express that the election of Group 1 was made solely to advance the application. In other words, the election in accordance with the restriction requirement is not intended to be indicative of Applicants' position with respect to the merits of the restriction requirement itself.

I. Drawing Objections:

The drawings were objected to under .37 C.F.R. 1.83(a) for failing to show every feature of the invention specified in the claims. In response, FIGS. 1 and 6 have been modified to show spots of adhesive.

II. Claim Rejections

A. 35 U.S.C. §112, Second Paragraph

Claims 1-6, 9-18, 20-21, and 23-24 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite. The above-listed claims have been amended to clarify the subject matter of the claims. The amendments are editorial in nature and add no new subject matter. Applicants submit that the pending claims are clear and definite.

B. 35 U.S.C. §102

Claims 1-4 were rejected under 35 U.S.C. §102 as being anticipated independently by Zulauf et al. (U.S. Patent No. 4,865,187), Prakken et al. (U.S. Patent No. 6,129,211), and Rouger (FR 2581971). In addition, claims 5-6, 10, 15-18, 20, 21, and 24 were rejected under 35 U.S.C. §102(b) as being anticipated by Rouger.

Claim 1 recites a case formed from a cardboard blank, the case comprising, among other things, a tear-off panel including at least three foldable precut side edges, at least two adjacent panel portions attached to the side edges of the tear-off panel, and a breakaway

bottom portion, the breakaway bottom portion including precut frangible portions constructed to be attached to the adjacent panel portions, wherein the frangible portions include precuts constructed such that pulling the breakaway bottom portion results in the frangible portion detaching from the at least two adjacent panel portions. None of the above-cited references disclose such structure.

In particular, Zulauf et al. fail to disclose a breakaway bottom portion. See Zulauf et al. FIGS. 1-3. The bottom portion in Zulauf et al. is integrally connected to all four side walls 17, 14, 16, and 14a of the carton 10. In addition, Zulauf et al. do not disclose, teach, or suggest separating the bottom portion of the carton from the side walls. See Zulauf et al. at columns 1-4. Accordingly, claim 1 is not anticipated by Zulauf et al. Claims 2-4 depend on and further limit claim 1; therefore, they are, for at least the same reasons, also not anticipated by Zulauf et al.

Similarly, Prakken et al. fail to disclose a breakaway bottom portion that includes precut frangible portions constructed to attach to adjacent panel portions. In Prakken et al. the box is not constructed to separate into a side panel portion and a bottom breakaway portion as claimed. See FIGS 1-15. In addition, Prakken et al. do not disclose the separation mechanism claimed, namely, precut frangible portions that are constructed such that pulling the breakaway bottom portion results in the frangible portion detaching from the at least two adjacent panel portions. Rather, Prakken et al. disclose converting the box into a display container involves pulling the tear tape, not the portions of the box that are intended to be removed. Accordingly, claim 1 is not anticipated by Prakken et al. Claims 2-4 depend on and further limit claim 1; therefore, they are, for at least the same reasons, not anticipated by Prakken et al.

Rouger clearly fails to disclose a breakaway bottom that is constructed such that it can be removed by pulling the portions of the container itself rather than tear tape. In addition, Rouger also fails to disclose a tear-off panel as claimed. Accordingly, claim 1 is not anticipated by Rouger. Rouger is apparently directed at a box having a tear tape around its periphery so that the box can be conveniently disassembled. See Rouger FIGS 1 and 2. Claims 2-4, 10, 15, and 16 depend on and further limit claim 1; therefore, they are, for at least the same reasons, also not anticipated by Rouger. Similarly, claim 17 recites frangible portions that are absent from Rouger. Accordingly, claim 17 is not anticipated by Rouger. Claims 18, 20, 21, and 24 depend

on and further limit claim 17; therefore, for at least the same reasons, they are also not anticipated by Rouger.

C. 35 U.S.C. 103

Claims 12 and 13 were rejected under 35 U.S.C. §103(a) as being obvious over Rouger in view of Cuffey, Jr. et al. (U.S. Patent No. 2,967,010). In addition, claims 11 and 14 were rejected under 35 U.S.C. 103(a) as being obvious over Rouger in view of Jackson et al. (UK 2307466).


Neither Rouger, Cuffey, Jr. et al., or Jackson disclose or suggest the precut frangible portions that are constructed such that the bottom portion of the case can be separated from the top portion of the case by pulling the two sections apart. The references teach away from such means for separating the top and bottom portions of the case. In particular, the references that teach separation teach the use of tear strips that once removed allow the portion of the case to be separated. Since the above-rejected claims depend from claim 1, which recites precut frangible portions, for at least this reason, the above-rejected claims are not obvious.

In view of the above amendments and remarks, Applicants respectfully request a Notice of Allowance. If the Examiner believes a telephone conference would advance the prosecution of this application, the Examiner is invited to telephone the undersigned at the below-listed telephone number.

Respectfully submitted,

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